REMARKS

This paper is filed in response to the Office Action dated February 17, 2005. As this paper is filed on June 17, 2005 with a one-month extension of time, the paper is timely filed.

I. Status of Amendments

Claims 1-3, 14-21, 34-39, and 41 were pending prior to this response. No amendments have been made. Consequently, claims 1-3, 14-21, 34-39, and 41 are presently pending.

II. Response to the February 17 Office Action

Claims 1-3, 14-21, 34-39, and 41 are rejected under 35 U.S.C. 112, first paragraph, as allegedly failing to comply with the enablement requirement. Claims 1-3, 14-20, 34-37, 39 and 41 are rejected under 35 U.S.C. 102(b) as allegedly anticipated by Walker et al. (U.S. Patent No. 6,077,163), while claims 21 and 38 are rejected under 35 U.S.C. 103 as allegedly obvious in view of Walker et al. Applicant responds as follows.

A. The Section 112 rejection should be withdrawn

As to the Section 112 rejection, the comments on pages 2 and 3 merely state that while the limitation that "deducting a fee at intervals from the value total independent of the play of the game" is supported, the limitation that "deducting a fee at intervals from the value total . . . independent of input from a player" is not supported. The further comments at pages 6 and 7 simply restate the latter suggestion.

Applicant respectfully submits that an insufficient basis has been provided for this rejection. MPEP 2164.04 states:

> In order to make a rejection, the examiner has the initial burden to establish a reasonable basis to question the enablement provided for the claimed invention. *In re Wright*, 999 F.2d 1557, 1562, 27 USPQ2d 1510, 1513 (Fed. Cir. 1993) (examiner must provide a reasonable explanation as to why the

> scope of protection provided by a claim is not adequately enabled by the disclosure).

In both of the passages cited above, the statement is made that a limitation is not supported by the written description, but without further detail. Applicant respectfully requests that a detailed explanation as to the basis for this rejection be provided if this rejection is to be maintained.

While the rejection was not phrased as such, applicant is also reminded of the fact that under the written description requirement, verbatim correspondence is not required between the written description and the claims. *In re Wright*, 9 U.S.P.Q.2d 1649, 1651 (Fed. Cir. 1989) ("the claimed subject matter need not be described in *haec verba* in the specification in order for that specification to satisfy the description requirement").

In any event, applicant believes that there is sufficient support for the limitation-at-issue in the written description. As expressed in the previous amendment, the limitation "independent of input from a player" was used to distinguish Walker et al., where "the player is involved in the setting of the section length and the acceptance of the session length" such that "the allegedly corresponding deduction of the allegedly corresponding fee is always dependent upon some player input." Amendment of November 14, at page 12. Along these lines then, applicant notes that the written description states that "[t]he routine may begin at block 122 where a player may enter value into one of the gaming units 20, 30." Application, at page 9:22-23. The routine then proceeds to block 124, where the initial value amount entered is used to define a value total, and, optionally, to block 126, where the gaming unit waits until the player signals his or her desire to begin the game. Application, at page 9:25 – page 10:10. The applicant then states the following (at page 10:11-22):

> At a block 128, the routine may deduct a fee from the value total. The fee may be based on time of play, rather than being assessed based on a game event, such as a hand, spin, card, ticket, etc. The fee deducted or assessed may thus be independent of the game being played, there being no one-to-one correspondence between fee and game event as there is between wager and game event in a typical casino game, such as poker, blackjack, slots, keno, bingo, and the like. It may be possible for the player to play one, more than one, or less than one hand, spin, card, ticket etc. per fee deduction depending upon the unit of time per fee and the length of time required by the player to complete the game event.

> The amount of the fee may be fixed or variable. Moreover, the amount of the fee may be determined based on input from the player. Further, the timing of the fee deduction may be more or less continuous, periodic or at irregular time intervals.

In particular, because "the amount of the fee may be determined based on input from the player," this suggests that it also may not be. Moreover, throughout the remainder of the written description, no mention is made of a player input being required for the deductions to occur - the player deposits his or her value and the deductions are made in keeping with the above-cited passage. Consequently, applicant submits that one skilled in the art would recognize that the deductions may be independent of the player, as that phrase is being used by applicant.

Withdrawal of this rejection is respectfully requested.

B. <u>The Section 102 and 103 rejections should be withdrawn</u>

In regard to the rejections based on Walker et al., applicant notes that the following comments were made in the February 17 Office Action:

- "Should the player decide to pay the flat rate price, the player simply deposits the necessary funds into the gaming device or makes a credit account available for the gaming device to debit." Page 3.
- "[D]educting a fee at intervals from the value total independent of play of said game represented by said video image and independent of input from a player (Abstract, Figs. 2B, 5, 8A-B, 11A, 15, column 1, lines 62-65, column 2, lines 1-5, column 3, lines 25-30, column 11, lines 51-57, and claims 5, 36, 46, and 59); A flat rate fee is deducted each player session." Page 4.
- "Even though Walker et al. discloses, in another embodiment, price parameters are operator selected parameters, rather than, player selected parameters and therefore do not require player input (Abstract, Column 1, lines 62-65, Column 11, lines 51-57, and Claims 5, 36, 46, 59), Applicant

> alleges since Walker et al. "consistently involves player input" that Walker's alternative embodiment does not anticipate the feature. The examiner respectfully disagrees." Pages 6 and 7.

As to the first statement, applicant disagrees with the implication of the statement – that acceptance of the flat rate price shows an absence of player input. To the contrary, as was noted as early as the June 14 Office Action, the flat rate price discussed at col. 3:21-28 (which is the passage from which this statement is believed to have been quoted) is a function of the parameters selected, including player selected parameters. The deposit then represents the last step in a process that involves player input, not merely an acceptance of a predetermined flat rate price arrived at independent of player input. Consequently, Walker et al.'s deposit of funds is not of the same nature as the deposit of funds discussed in applicant's written description.

As to the third statement, it appears that there might be confusion as to the point applicant was making on page 12 of the November 14 Amendment. Applicant did not suggest, as the above-cited quotation suggests one might think, that the statements made in Walker et al. regarding operator-selected parameters be overlooked because of the recitation of player-selected parameters elsewhere. Applicant agrees that a reference must be read in its entirety. However, in reading Walker et al. in its entirety, it is consistently stated that player is involved in setting session length and accepting session length. Applicant submits that this makes the allegedly corresponding deduction in Walker et al. dependent upon player input. In this regard, applicant reviewed the citations made in the second and third statements provided above, and found nothing to the contrary. If the examiner still disagrees, applicant respectfully requests a statement of the reasons for disagreement, or an interview on the issue with the examiner.

In view of the above amendment, applicant believes the pending application is in condition for allowance. If there is any matter that the Examiner would like to discuss, the Examiner is invited to contact the undersigned representative at the telephone number set forth below. In any event, the Director is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith to our Deposit Account No. 13-2855, under Order No. 29757/P-570. A duplicate copy of this paper is enclosed.

Dated: June 17, 2005

Respectfully submitted,

By_____

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